

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

GERALD CARTER

PLAINTIFF

VS.

NORTHSIDE INDEPENDENT  
SCHOOL DISTRICT

DEFENDANT

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CIVIL ACTION NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TEXAS, SAN ANTONIO DIVISION:

1.

Please take notice that Defendant Northside Independent School District (hereinafter  
“Defendant”) hereby removes to this Court the state court action described below.

2.

This action was commenced on May 23, 2011, in the Bexar County Court at Law No. 2 of Bexar  
County, Texas, as Cause No. 369254. Defendant was served with citation and received its first  
notice of this cause on May 27, 2011. As of this date, the case is styled Gerald Carter vs. Northside  
Independent School District. In Plaintiff's Original Petition filed and served on Defendant, Plaintiff  
alleges a federal cause of action under the Americans with Disabilities Act, 42 U.S.C. §12102 *et*  
*seq.* In his pleadings, Plaintiff Gerald Carter alleges that Defendant Northside Independent School  
District discriminated against him based on his alleged disability, failed to accommodate his alleged  
disability, retaliated against him because of his alleged disability and constructively terminated him

because of his alleged disability.

3.

This action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §1331 and 28 U.S.C. §1343. This Court has original jurisdiction over the subject matter, an alleged violation of federal law – the Americans with Disabilities Act. Therefore, this action is removable to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441, being a civil action over which the Federal district courts have original jurisdiction and a case arising under the laws of the United States.

4.

This Notice of Removal is filed within thirty (30) days of receipt by Defendant of Plaintiff's Original Petition, and is therefore timely filed pursuant to the provisions of 28 U.S.C. §1446(b).

5.

A copy of all process, pleadings and orders served on Defendant in this action is attached to this Notice.

WHEREFORE, PREMISES CONSIDERED, Defendant Northside Independent School District prays that this cause be removed to this the United States District Court for the Western District of Texas, San Antonio Division, and that the said Court grant said Defendant all relief, special or general, at law or in equity, to which it shows itself justly entitled.

Respectfully Submitted,

WALSH, ANDERSON, BROWN,  
GALLEGOS & GREEN, P.C.  
100 NE Loop 410, Suite 900  
San Antonio, Texas 78216  
Tel No. 210-979-6633  
Fax No. 210-979-7024

By: /s/ D. Craig Wood  
D. CRAIG WOOD  
Attorney In Charge  
State Bar No. 21888700  
cwood@sa.wabsa.com  
By: /s/ Stacy T. Castillo  
STACY T. CASTILLO  
State Bar No. 00796322  
scastrillo@sa.wabsa.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Removal has been sent by certified mail, return receipt requested on the \_\_\_\_ day of \_\_\_\_\_ 2011, to:

Mr. Adam Poncio  
Poncio Law Offices  
5410 Fredericksburg Road, Suite 109  
San Antonio, TX 78229-3550

**CERTIFIED MAIL #7010 2780 0003 1514 5655  
RETURN RECEIPT REQUESTED**

\_\_\_\_\_  
D. CRAIG WOOD

RUN DATE: 06/14/2011 Boxer County Centralized Docket System Pg: 1 PGH: DKB490DP  
 RUN TIME: 16:57:04 JCL: SPPROD

\* DOCKET INFORMATION \*

CAUSE NUM: 369254  
 DATE FILED: 05/23/2011 COURT: 002 UNPAID BALANCE: 0.00  
 TYPE OF DOCKET: DAMAGES

\*\*\* STYLE \*\*\*

GERALD CARYER  
 VS NORTHSIDE INDEPENDENT SCHOOL DISTRICT

ACCESS: 0 STATUS: PENDING

\* LITIGANT INFORMATION \*

SEQ	LAST / FIRST / MIDDLE NAME	LIT. TYPE/ATTORNEY	DATE
00001	CARTER GERALD	PLAINTIFF	05/23/2011
	00001 PONCIO, ADAM		
00002	NORTHSIDE INDEPENDENT SCHOOL DISTRI	DEFENDANT	05/23/2011
	00002 NOOD, DONALD CRAIG		
00003	FOLKS JOHN	REDISTERED AGENT	05/25/2011

\* SERVICES INFORMATION \*

SEQ	SERVICE TYPE / DATES	DIST	LITIGANT NAME
00001	CITATION	150	
	ISS: 05/25/2011 REC: 05/27/2011 EXE: 05/27/2011 RET: 06/01/2011		

\* ATTORNEY INFORMATION \*

SEQ	DATE FILED	BAR NBR.	NAME	STATUS	DATE
00001	05/23/2011	16189800	PONCIO, ADAM	SELECTED	05/25/2011
00002	05/19/2011	21888700	NOOD, DONALD CRAIG	SELECTED	06/13/2011

\* PROCEEDING INFORMATION \*

SEQ	DATE FILED	VOLUME	PAGE	PAGE COUNT
00001	05/23/2011	0000	0000	0000
	DESC: CIVIL CASE INFORMATION SHEET			
00002	05/23/2011	0000	0000	0000
	DESC: PLAINTIFF ORIGINAL PETITION			
00003	06/06/2011	0000	0000	0000
	DESC: "CITATION SCANNED"			
00004	06/10/2011	0000	0000	0000
	DESC: ANSWER TO ORIGINAL PETITION AND AFFIRMATIVE DEFENSES NORTHSIDE INDEPENDENT SCHOOL DISTRICT			

\* TRIAL INFORMATION \*

SEQ	DATE FILED	COURT	SETT. DATE	TIME	ATTY
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RUN DATE: 06/14/2011 Baxter County Centralized Docket System Pg: 2 PGM: DKB4900P  
RUN TIME: 16:57:56 JCL: SPFRDD

\* ORDER INFORMATION \*

SEQ	DATE FILED	JUDGE NAME	VOLUME	PAGE	PAGE CNT	AMOUNT	SOF
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\* BOND INFORMATION \*

SEQ	DATE FILED	PRINCIPAL
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COPY

CAUSE NO. 369254

GERALD CARTER

Plaintiff

vs.

NORTHSIDE INDEPENDENT SCHOOL  
DISTRICT

Defendant

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IN THE COUNTY COURT

AT LAW NO. 2

BEXAR COUNTY, TEXAS

FILED IN MY OFFICE  
GERARD RICKHOFF  
COUNTY CLERK BEXAR CO.  
2011 JUN 10 PM 1:37**DEFENDANT NORTHSIDE INDEPENDENT SCHOOL  
DISTRICT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Defendant NORTHSIDE INDEPENDENT SCHOOL DISTRICT (hereinafter "District" or "Northside ISD"), in the above-styled and numbered cause, and files its Original Answer and Affirmative Defenses, and shows the Court the following:

**I.  
GENERAL DENIAL**

The District denies each and every allegation, all and singular, contained within the Plaintiff's Original Petition. The Texas Rules of Civil Procedure and, in particular, Rule 92, affords citizens and entities of this state certain protections with respect to lawsuits of this type. Accordingly, the District invokes the provisions of that rule and does generally deny the allegations now made against it by the Plaintiff. At any trial of this cause, the District will exercise its legal rights in this regard, and require Plaintiff to carry the burden of proof, which the law imposes upon him, to prove each and every material allegation contained in his pleading by a preponderance of the credible evidence.

II.  
AFFIRMATIVE DEFENSES

The District asserts that Plaintiff has failed to state a claim upon which relief can be granted under the U.S. and Texas Constitutions, or under any state or federal statute, constitutional theory, or legal authority.

Notwithstanding the foregoing, the District asserts that it acted in good faith and with a reasonable belief that its actions relevant to this lawsuit were in compliance with federal and state law. Furthermore, none of the District's actions violated any clearly established statutory or constitutional rights of which a reasonable person would have known.

Notwithstanding the foregoing, the District asserts its entitlement to sovereign immunity, professional immunity and common-law official immunity from liability for claims arising out of Plaintiff's Complaint.

Notwithstanding the foregoing, the Court lacks subject matter jurisdiction over Plaintiff's claims because he failed to exhaust his administrative remedies. To the extent that any of Plaintiff's claims are barred by immunity, were not part of the underlying administrative proceedings, or were not filed within the relevant statute of limitations, the Court lacks subject matter jurisdiction.

Notwithstanding the foregoing, Defendant cannot be held liable for alleged constitutional or statutory violations under the theory of respondeat superior.

Notwithstanding the foregoing, Defendant asserts that it breached no legal duty of any kind owing to the Plaintiff. The District has adopted policies strictly prohibiting discrimination and retaliation of any kind, including harassment, retaliation, or discrimination of employees based on disability, sex, race, national origin, or ethnicity. Northside ISD has no policy, practice

or custom of permitting harassment or discrimination of any employees in the District. Defendant's actions were in compliance with its employment policies and in compliance with applicable federal and state law.

Notwithstanding the foregoing, the District asserts that Plaintiff is not entitled to any of the relief demanded in his pleadings and that Plaintiff is not entitled to damages or costs in any amount. The District further asserts that as a governmental entity, Plaintiff is not entitled to punitive or exemplary damages against it, as a matter of law.

Notwithstanding the foregoing, the District further asserts its right to mitigation of damages and to the extent the Plaintiff has failed to mitigate his damages, that his damages, if any, should be adjusted accordingly.

Notwithstanding the foregoing, the District claims its entitlement to recover attorney's fees and costs of suit pursuant to the Rules of Civil Procedure, Texas Education Code, federal law and judicial interpretation.

Notwithstanding the foregoing, the District asserts the right to raise additional defenses that become apparent throughout the factual development of the case.

### **III.** **PRAYER**

WHEREFORE PREMISES CONSIDERED, the District prays that Plaintiff take nothing by way of his causes of action brought herein, that the District recover all costs on its behalf expended, and that it be granted all such other and further relief, special or general, at law or in equity, to which it shows itself justly entitled.



Respectfully submitted,

WALSH, ANDERSON, BROWN,  
GALLEGOS & GREEN, P.C.  
100 NE Loop 410, Suite 900  
San Antonio, Texas 78216  
Tel No. 210-979-6633  
Fax No. 210-979-7024

By: /s/ D. Craig Wood  
D. CRAIG WOOD  
Attorney In Charge  
State Bar No. 21888700  
cwood@sa.wabsa.com

By: /s/ Stacy T. Castillo  
STACY T. CASTILLO  
State Bar No. 00796322  
scastillo@sa.wabsa.com

ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing Defendant Northside Independent School District's Original and Affirmative Defenses was served in the manner indicated below on the 8th day of June, 2011, to:

Adam Poncio  
Poncio Law Offices  
5410 Fredericksburg Road, Suite 109  
San Antonio, TX 78229-3550  
SBN: 16109800

**CERTIFIED MAIL #7010 2780 0003 1514 5631  
RETURN RECEIPT REQUESTED**

/s/ D. Craig Wood  
D. CRAIG WOOD

369254

CAUSE NO. \_\_\_\_\_

GERALD CARTER

vs.

NORTHSIDE INDEPENDENT  
SCHOOL DISTRICT

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IN THE COUNTY COURT

AT LAW NO. 2

BEXAR COUNTY, TEXAS

FILED IN MY OFFICE  
GERALD CARTER  
COUNTY CLERK  
2011 MAY 23 PM 4:47  
CO.

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES GERALD CARTER, hereinafter referred to as Plaintiff, complaining of  
NORTHSIDE INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as Defendant, and  
for cause of action shows unto the Court the following:

**I. PARTIES AND SERVICE**

Plaintiff is a resident of Bexar County, Texas.

Defendant, NORTHSIDE INDEPENDENT SCHOOL DISTRICT, is a Texas entity  
doing business in Bexar County, Texas, which may be served with process by the clerk of the  
court by certified mail, return receipt requested by serving Defendant's Superintendent, John  
Folks, 5900 Evers Road, San Antonio, Texas 78238.

**II. JURISDICTION**

This court has jurisdiction because the action arises under the Americans with  
Disabilities Act, 42 U.S.C. §12102, et al.

**III. VENUE**

Venue of this action is proper in Bexar County, Texas in that all or a substantial part of  
the events or omissions giving rise to the claims herein occurred principally and/or exclusively

in Bexar County, Texas. TEX. CIV. PRAC. & REM. CODE ANN. § 15.001.

Moreover, venue is proper in Bexar County, Texas in that the Defendant conducts business in Bexar County. See TEX. CIV. PRAC. & REM. CODE § 15.002.

#### **IV. DISCOVERY**

Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure.

#### **V. MISNOMER / MISIDENTIFICATION**

In the event that any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer" and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

#### **VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

Plaintiff timely filed a charge of discrimination against Defendant with the Equal Employment Opportunity Commission (EEOC). Plaintiff files this complaint within 90 days after receiving a Dismissal and Notice of Rights from the EEOC. A copy of the notice of the right to sue is attached as Exhibit A.

Thereafter, Plaintiff received a "Notice of Right to File a Civil Action," dated March 24, 2011 and received by Plaintiff on March 28, 2010, giving Plaintiff Notice of Right to File a Civil Action to sue Defendant within 90 days of its receipt. A copy is attached hereto as Exhibit "B" and made a part hereof for all intents and purposes.

#### **VII. FACTS**

Plaintiff faithfully worked for the Defendant since October of 2007 as a teacher at Mary

Michael Elementary School.

In November 2009, and January 2010, Plaintiff was counseled on performance issues. On or about March 29, 2010, the Superintendent notified Plaintiff in writing that Plaintiff would not be given a new two (2) year contract. Once Plaintiff's current contract for the 2010 - 2011 school year was completed, Plaintiff would cease to be employed by Defendant. Plaintiff believes he was being discriminated against in violation of the Americans with Disabilities Act of 1990, and filed a Charge of Discrimination with the Equal Employment Opportunity Commission on April 26, 2011, under Charge No. 451-2010-00999.

Since the date of filing his initial Charge of Discrimination, Plaintiff has suffered retaliation. During the week of January 3, 2011, Plaintiff was met with increasing pressure and harassment by Defendant. This occurred in the form of two (2) official reprimands, three (3) observations by supervisors, and two (2) required meetings with administration, all in the first four (4) days back. Plaintiff was told in a meeting that as of January 4, 2011, Defendant would not recommend Plaintiff for renewal of his contract based on Plaintiff's performance and reprimands. The Principal at Mary Michael Elementary made Plaintiff's job increasingly difficult by focusing intently on any infraction that may occur.

Plaintiff has had to endure Defendant's supervisors monitoring his classroom and having to attend weekly meetings to discuss Plaintiff's performance, thereby making Plaintiff's job performance difficult under the intensive supervision of Defendant. Plaintiff was informed by Defendant's attorney of record that the mandatory meeting would cease if Plaintiff dropped his first Charge of Discrimination against Defendant. Plaintiff did not drop the initial Charge of Discrimination against Defendant and therefore, the mandatory meetings continued.

Plaintiff has been diagnosed by his treating physician with clinical depression and anxiety, and most recently with ADHD. The Principal and Vice Principal were both aware of Plaintiff's medical conditions and how these conditions were affecting his job performance. Defendant was fully aware that Plaintiff's clinical depression would intensify if there was an increased anxiety and loss of sleep, as Defendant had received letters from Plaintiff's treating physician, as well as personal appeals from Plaintiff.

In June 2010, Plaintiff, with the direction of his treating physician, requested certain accommodation in order to alleviate the stress he was put under by Defendant, and even went to far as to request he be moved to another facility. Defendant, in turn, denied the accommodations.

Due to the continued stress Plaintiff was being subjected to, on April 22, 2011 Plaintiff has not alternative but to constructively terminate his employment with Defendant.

#### **VIII. AMERICANS WITH DISABILITIES ACT**

##### **42 U.S.C. §12102, et al.**

Plaintiff is disabled, as defined by the Americans with Disabilities Act (ADA), 42 U.S.C. §12102(1). The Plaintiff's clinical depression and other medical conditions substantially limit some of his life activities. Prior to his constructive termination, and prior to Defendant's harassment and retaliation, Plaintiff was otherwise qualified and able to perform the essential functions of his job as a Teacher.

Plaintiff is an employee within the meaning of the ADA, 42 U.S.C. §12111(4).

Defendant is an employer within the meaning of the ADA, 42 U.S.C. §12111(5).

Defendant violated the ADA by discriminating against Plaintiff through failure to

reasonably accommodate Plaintiff's disability. Plaintiff could reasonably accommodate the Plaintiff but was unwilling to do so. Though it was known and obvious to the Defendant that the Plaintiff would require accommodations due to the fact that the Plaintiff continued under the care of a physician for his medical conditions, the Defendant did not make accommodations when the Plaintiff requested them based on his disability and/or based on the perception of his disability.

Additionally, Defendant violated the ADA by intentionally discriminating against Plaintiff because of his disability, 42 U.S.C. §12203. Defendant's discriminatory acts include retaliating against and causing the constructive termination of Plaintiff for Defendant's failure to accommodate his disability.

#### **IX. RESPONDEAT SUPERIOR AND RATIFICATION**

Whenever in this complaint it is alleged that the Defendant did any act or thing, it is meant that the Defendant's officers, agents, servants, employees or representatives did such act and/or that at that time such act was done, it was done with the full authorization or ratification of the Defendant or was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees, or representatives.

#### **X. DAMAGES**

As a direct and proximate result of the Defendant's conduct and/or omission, Plaintiff suffered the following injuries and damages:

- (a) Mental anguish and emotional distress suffered in the past;
- (b) Mental anguish and emotional distress which, in all reasonable probability, will be suffered in the future;

- c) Lost wages, past and future;

**XI. ATTORNEY FEES**

Plaintiff is entitled to an award of attorney fees, expert fees and costs under 42 U.S.C. §12205.

**XII. JURY DEMAND**

Plaintiff further demands a trial by jury.

**XIII. PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court and believed to exceed \$75,000; attorney's fees and expert fees, together with interest, including pre and post judgment interest, as allowed by law; costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity. Plaintiff requests a jury trial.

Respectfully submitted,

By:  \_\_\_\_\_

**ADAM PONCIO**  
State Bar No. 16109800  
**PONCIO LAW OFFICES, P.C.**  
5410 Fredericksburg Rd., Suite 190  
San Antonio, TX 78229  
Tel. (210) 212-7979  
Fax. (210) 212-5880

**ATTORNEYS FOR PLAINTIFF**

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Gerald L. Carter**  
**c/o Mr. Adam Poncio**  
**5410 Fredericksburg Rd, Suite 109**  
**San Antonio, TX 78229**

From: **San Antonio Field Office**  
**5410 Fredericksburg Rd**  
**Suite 200**  
**San Antonio, TX 78229**



On behalf of person(s) aggrieved whose identity is  
 CONFIDENTIAL (29 CFR §1601.7(a)).

EEOC Charge No.

EEOC Representative

Telephone No.

451-2011-00534

**Jose Colon-Franqui,**  
**Supervisor**

(210) 281-7608

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

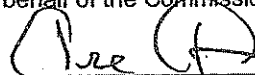
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



February 25, 2011

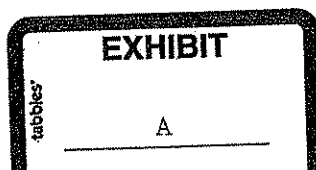
Enclosures(s)

**Pedro Esquivel,**  
**Director**

(Date Mailed)

cc: **NORTHSIDE INDEPENDENT SCHOOL DISTRICT**  
**Assistant Supervisor for Human Resources**  
**5617 Grissom Road**  
**San Antonio, TX 78238**

RECEIVED FEB 28 2011







**Texas Workforce Commission  
Civil Rights Division**

3/24/2011

**NOTICE OF RIGHT TO FILE A CIVIL ACTION**

Gerald L. Carter  
c/o Adam Poncio  
Poncio Law Offices  
5410 Fredericksburg Road, Suite 109  
San Antonio, TX 78229-3550

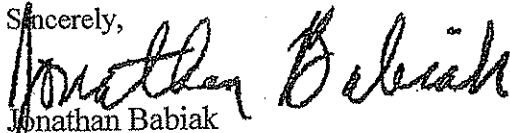
Re: *Gerald L. Carter v. Northside Independent School District*  
EEOC Complaint # 451-2011-00534  
CRD/Local Commission Complaint #

The above-referenced case was processed by the United States Equal Employment Opportunity Commission or a local agency. Pursuant to Sections 21.252 and 21.254 of the Texas Labor Code, this notice is to advise you of your right to bring a private civil action in state court in the above-referenced case. YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION.

If your case has been successfully resolved by the U. S. Equal Employment Opportunity Commission or another agency through a voluntary settlement or conciliation agreement, you may be prohibited by the terms of such an agreement from filing a private civil action in state court pursuant to the Texas Commission on Human Rights Act, as amended.

The United States Supreme Court has held in *Kremer v. Chemical Construction Corporation*, 456 U.S. 461 (1982), that a federal district court must generally dismiss a Title VII action involving the same parties and raising the same issues as those raised in a prior state court action under Chapter 21 of the Texas Labor Code. Therefore, filing a lawsuit in state court based on the issuance of this notice of right to file a civil action may prevent you from filing a lawsuit in federal court based on Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e - et seq.

Sincerely,

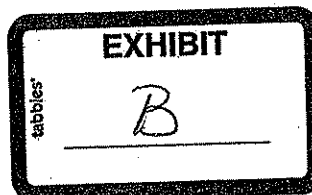
  
Jonathan Babiak  
Division Director

**RETAIN ENVELOPE TO VERIFY DATE RECEIVED**

Copy to:

Northside Independent School District  
Assistant Supervisor for Human Resources  
5617 Grissom Road  
San Antonio, TX 78238

**RECEIVED MAR 28 2011**



CERT-C-NCO2(6/92)

"The State of Texas"

NO. 369254

GERALD CARTER

Plaintiff  
vs.

NORTHSIDE INDEPENDENT SCHOOL DISTRICT

Defendant

NOTICE

**Citation** Directed to: NORTHSIDE INDEPENDENT SCHOOL DISTRICT  
BY SERVING ITS SUPERINTENDENT, JOHN FOLKS  
5900 EVERS ROAD  
SAN ANTONIO, TX 78238

IN THE COUNTY COURT AT

LAW NO. 2

BEXAR COUNTY, TEXAS

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 23RD day of May, 2011.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 25TH DAY OF May A.D. 2011.

ADAM PONCIO

Attorney/PLAINTIFF

address 5410 FREDERICKSBURG RD 10  
SAN ANTONIO, TX 78229-3554



GERARD RICKHOFF

County Clerk of Bexar County, Texas  
Bexar County Courthouse  
100 Dolorosa Suite 104  
San Antonio, Texas 78205

By: Marie E. Poole Deputy  
MARIE E. POOLE

OFFICER'S RETURN

Came to hand 27 day of May, A.D. 2011, at o'clock M.  
and executed the 27 day of May, A.D. 2011, in  
at o'clock M. by delivering to MC Zamarripa  
in person a true copy of this citation together with the accompanying copy of plaintiff's  
petition, Served at 5900 EVERS Rd San Antonio, TX 78238

I traveled miles in the execution of this citation. fees: Serving citation  
\$ Mileage Total \$

County, Texas

By

The State of Texas

NON - PEACE OFFICER VERIFICATION

VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)

SWORN TO this day of



369254

(DKC001)

NOTARY PUBLIC, STATE OF TEXAS

SCANNED

RETURN TO COURT

Certified Mail Article # 709 88200001 7478 4546

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## i. Article Addressed to:

NORTHSIDE INDEPENDENT SCHOOLDIST  
 BY SERVING ITS SUPERINTENDENT  
 JOHN FOLKS  
 5900 EVERS ROAD  
 SAN ANTONIO, TX. 78238

*369254*

2. Article Number

(Transfer from service label)

7009 2820 0001 7478 4546

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*X Mcgovern*☒ Agent☐ Addressee

B. Received by (Printed Name)

*McZamarripa*

C. Date of Delivery

*5/27/11*

D. Is delivery address different from item 1?

☐ Yes☒ No

If YES, enter delivery address below:

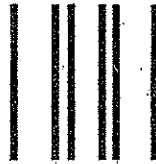
3. Service Type

☐ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes☒ No

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees P  
USPS  
Permit No. G-1

• Sender: Please print your name, address, and ZIP+4 in this box •

CIVIL CENTRAL FILING

ATTN: MARIE

CASE: 369254

CIT

05/25/2011

*Handwritten signature: Marie*  
JUN -1 PM 2:57  
FILED IN MY OFFICE  
GERRY RICKHOFF  
BEXAR COUNTY CLERK  
BEXAR COUNTY COURTHOUSE  
100 DOLOROSA, SUITE 108  
SAN ANTONIO, TEXAS 78205-3083

"The State of Texas"

NO. 369254GERALD CARTERPlaintiff  
vs.

IN THE COUNTY COURT AT

LAW NO. 2

BEXAR COUNTY, TEXAS

NORTHSIDE INDEPENDENT SCHOOL DISTRICT

Defendant

## NOTICE

**Citation** Directed to: NORTHSIDE INDEPENDENT SCHOOL DISTRICT  
 BY SERVING ITS SUPERINTENDENT, JOHN FOLKS  
 5900 EVERS ROAD  
 SAN ANTONIO, TX 78238

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 23RD day of May, 2011.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 25TH DAY OF May A.D., 2011.

GERARD RICKHOFF  
 County Clerk of Bexar County, Texas  
 Bexar County Courthouse  
 100 Dolorosa Suite 104  
 San Antonio, Texas 78205

ADAM PONCIO

Attorney/PLAINTIFF

address 5410 FREDERICKSBURG RD 10  
 SAN ANTONIO, TX 78229-3554

By: Marie E. Poole Deputy  
 MARIE E. POOLE

## OFFICER'S RETURN

Came to hand        day of       , A.D.       , at        o'clock        M.  
 and executed the        day of       , A.D.       , in         
 at        o'clock        M. by delivering to         
 in person a true copy of this citation together with the accompanying copy of plaintiff's  
 petition. Served at       

I traveled        miles in the execution of this citation. fees:        Serving citation  
 \$        Mileage        Total \$       

       County, TexasBy       

The State of Texas

NON - PEACE OFFICER VERIFICATION

VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)

SWORN TO this        day of       ,       

369254

(DKC001)

NOTARY PUBLIC, STATE OF TEXAS

FILE COPY



## County Clerk - Civil Central Filing

Receipt

Duplicate Receipt New Case

Transaction Status: Valid

<b>Date: 5/24/2011</b>	<b>Batch Day</b> 05/24/2011	<b>Time: 12:18:56 PM</b>
Receipt Date: 05/24/2011		

**Gerard Rickhoff**

County Clerk - Civil Central Filing

Bexar County

ADAM PONCIO  
5410 FREDERICKSBURG RD  
109  
SAN ANTONIO, TX 78229

Court Number: 2

**Style:**

GERALD CARTER

VS

NORTHSIDE INDEPENDENT SCHOOL DISTRICT

**Amount for this Receipt: \$294.00**

<b>Cause Number:</b> 369254
<b>Receipt Number:</b> 00948536
<b>Transaction Number:</b> 28
<b>User ID:</b> CC18591
<b>WorkStation:</b> D911KMJ1
<b>Batch Number:</b> 26628
<b>Department Code:</b> CCPP
<b>Payment Type Code:</b> 3073
<b>Payment Type Name:</b> ccORP Cert Mail Jury
<b>Court Date:</b>
<b>Court Time:</b> :

Transaction #	Office	Tender Name	Tender Code	Date of Check	Amount
28	CHCC	Check (Endors)	CK	5/23/2011 12:18:21 PM	\$294.00
<b>Transaction Total</b>					<b>\$294.00</b>

Allocation Names And Amounts			
alADRS	\$15.00	alJSF2	\$42.00
alAPLC	\$5.00	alBCLS (County 5%)	\$0.50
ccCertified Mail	\$60.00	ccClerk - New Filing	\$40.00
alCSF	\$5.00	ccJSF	\$40.00
alJury Demand	\$22.00	alLaw Library	\$15.00
alOCR	\$15.00	alRMF	\$5.00
alBCLS (State 95%)	\$9.50	al CH/RENOV FEE	\$15.00
al Rec Preservation Fee	\$5.00		



# Gerry Rickhoff

COUNTY CLERK



BEXAR COUNTY

BEXAR COUNTY COURT HOUSE  
SAN ANTONIO, TEXAS 78205

CASE NO. 369254

FILED  
JUN 17 2011  
CLERK

GERALD CARTER

DATE: \_\_\_\_\_

VS.  
NORTHSIDE INDEPENDENT  
SCHOOL DISTRICT

Please list name and service type for each defendant.

CITATION:

1. NAME NORTHSIDE INDEPENDENT SCHOOL DISTRICT, by Registered Agent for Service:  
Superintendent, John Folks, 5900 Evers Road, San Antonio, Texas 78238.

- A. \_\_\_\_\_ Private Process  
B. \_\_\_\_\_ Sheriff  
C. ☒ Certified Mail  
D. \_\_\_\_\_ Out of County,

Mail to Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_

2. NAME \_\_\_\_\_

- A. \_\_\_\_\_ Private Process  
B. \_\_\_\_\_ Sheriff  
C. \_\_\_\_\_ Certified Mail  
D. \_\_\_\_\_ Out of County,

Mail to Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_

3. NAME \_\_\_\_\_

- A. \_\_\_\_\_ Private Process  
B. \_\_\_\_\_ Sheriff  
C. \_\_\_\_\_ Certified Mail  
D. \_\_\_\_\_ Out of County,

Mail to Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_

4. NAME \_\_\_\_\_

- A. \_\_\_\_\_ Private Process  
B. \_\_\_\_\_ Sheriff  
C. \_\_\_\_\_ Certified Mail  
D. \_\_\_\_\_ Out of County,

Mail to Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_

369254

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

STYLED GERALD CARTER VS. NORTHSIDE INDEPENDENT SCHOOL DISTRICT

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment motion for modification or enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

<b>1. Contact information for person completing case information sheet:</b> Name: <u>Adam Poncio</u> Email: <u>salaw@msn.com</u> Address: <u>5410 Fredericksburg Rd.</u> Telephone: <u>210-212-7979</u> <u>Suite 109</u> City/State/Zip: <u>San Antonio, Tx 78229</u> Fax: <u>210-212-5880</u> Signature: <u>[Signature]</u> State Bar No: <u>16109800</u>		<b>Names of parties in case:</b> Plaintiff(s)/Petitioner(s): <u>Gerald Carter</u> Defendant(s)/Respondent(s): <u>Northside Independent School District</u> (Attach additional page as necessary to list all parties)		<b>Person or entity completing sheet is:</b> <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____					
<b>2. Indicate case type or identify the most important issue in the case (select only 1):</b>									
<b>Civil</b>			<b>Family Law</b>						
<b>Contract</b> <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:		<b>Injury or Damage</b> <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: <input type="checkbox"/> Other Injury or Damage:		<b>Real Property</b> <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:		<b>Marriage Relationship</b> <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:		<b>Post-judgment Actions (non Title IV-D)</b> <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child:	
<b>Employment</b> <input checked="" type="checkbox"/> Discrimination <input checked="" type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Termination <input checked="" type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:		<b>Other Civil</b> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:							
<b>Tax</b> <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax		<b>Probate &amp; Mental Health</b> <b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:							
<b>3. Indicate procedure or remedy, if applicable (may select more than 1):</b>									
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover					